



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

08/446,904

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/446,904	06/01/95	AMERAG 310	

ROBERT A FRANCK  
SOVERING-MLAUGH CORPORATION  
LINE GIPPLDA FARMS  
MADISON NJ 07940-1000

EXAMINER	
RACIYI, E	
ART UNIT	PAPER NUMBER

FORM 1/12/20

3367  
DATE MAILED: 12/20/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined  Responsive to application filed on 6/1/95 + PRE-AMO.  This action is made final.

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), 30 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1.  Notice of References Cited by Examiner, PTO-892.
2.  Notice of Draftsman's Patent Drawing Review, PTO-948.
3.  Notice of Art Cited by Applicant, PTO-1449.
4.  Notice of Informal Patent Application, PTO-152.
5.  Information on How to Effect Drawing Changes, PTO-1474.
6.  \_\_\_\_\_

**Part II SUMMARY OF ACTION**

1.  Claims 1 - 27 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims \_\_\_\_\_ are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims 1-27 are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other

**EXAMINER'S ACTION**

5        This application contains claims directed to the following patentably distinct species of the claimed invention: an inhaler having a dose plate as shown in Figures 22-24; an inhaler having a dose plate as shown in Figure 38; and an inhaler having a dose plate as shown in Figure 39. Further, the following patentably distinct species of pawl drives are present as represented by the following Figures: Figures 75-79; Figures 80-82; Figures 93-97; Figures 98-101; Figures 10 102-104; and Figure 105. Further, the following patentably distinct species of mouthpiece nozzles are present as represented by the following Figures: Figures 51-55; and Figures 56-58. Further, the following patentably distinct species of bases are present as represented by the following Figures: Figure 7; and Figures 83-87. Lastly, the following patentably distinct species of lower spring retainers are present as represented by the following Figures: Figures 30-34; and 15 Figures 88-92

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species of each of the above elements of the total combination for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 2, and 25-27 appear to be generic.

20        Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

25        Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

5

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

Due to the involved and complex nature of this election requirement, and the interrelated nature of the claimed species no attempt at an oral election was made to give Applicant the opportunity necessary for a fully measured response..

10      Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

15      Any inquiry concerning this communication from the Examiner should be directed to Eric Raciti whose telephone number is (703) 308-0400. The Examiner may normally be reached between 9:00 AM and 5:30 PM EDT. The Fax number for Art Unit 3307 is (703) 308-2864.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858.

20

  
E. P. Raciti  
Examiner, AU 3307

  
EDGAR S. BURR  
S.P.E.  
GROUP ART UNIT 337